

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

<p>BLUE SPIKE, LLC,</p> <p><i>Plaintiff,</i></p> <p>v.</p> <p>TEXAS INSTRUMENTS, INC.,</p> <p><i>Defendant.</i></p>	<p>§§§§§§</p> <p>Consolidated Civil Action No. 6:12-CV-499-MHS</p> <p>JURY TRIAL DEMANDED</p>
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PLAINTIFF'S REPLY IN RESPONSE TO DEFENDANT FULCRUM BIOMETRICS, LLC'S COUNTERCLAIMS

Plaintiff Blue Spike, LLC files this Reply to the Counterclaims of Defendant Fulcrum Biometrics, LLC (“Fulcrum” or “Defendant”) (Dkt. No. 1480) as follows. All allegations not expressly admitted or responded to by Blue Spike, LLC are denied.

COUNTERCLAIMS

1. Blue Spike, LLC denies the allegations set forth in Paragraph 1.
2. Blue Spike, LLC admits the allegations of Paragraph 2.
3. Paragraph 3 does not contain allegations which require an admission or denial. To the extent Paragraph 3 is construed as an allegation that the Eastern District of Texas is improper or inconvenient, Blue Spike, LLC denies the same.

COUNT ONE
(Declaratory Judgment of Non-Infringement of the '175 Patent)

4. Blue Spike, LLC repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1-3.
5. Blue Spike, LLC admits the allegations of Paragraph 5.
6. Blue Spike, LLC denies the allegations of Paragraph 6.
7. Blue Spike, LLC denies that Defendant is entitled to the relief it seeks in Paragraph 7.

COUNT TWO
(Declaratory Judgment of Invalidity of the '175 Patent)

8. Blue Spike, LLC repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1-7.
9. Blue Spike, LLC denies the allegations of Paragraph 9.
10. Blue Spike, LLC denies that Defendant is entitled to the relief it seeks in Paragraph 10.

COUNT THREE
(Declaratory Judgment of Non-Infringement of the '494 Patent)

11. Blue Spike, LLC repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1-10.
12. Blue Spike, LLC admits the allegations of Paragraph 12.
13. Blue Spike, LLC denies the allegations of Paragraph 13.
14. Blue Spike, LLC denies that Defendant is entitled to the relief it seeks in Paragraph 14.

COUNT FOUR
(Declaratory Judgment of Invalidity of the '494 Patent)

15. Blue Spike, LLC repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1-14.
16. Blue Spike, LLC denies the allegations of Paragraph 16.
17. Blue Spike, LLC denies that Defendant is entitled to the relief it seeks in Paragraph 17.

COUNT FIVE
(Declaratory Judgment of Non-Infringement of the '700 Patent)

18. Blue Spike, LLC repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1-17.
19. Blue Spike, LLC admits the allegations of Paragraph 19.
20. Blue Spike, LLC denies the allegations of Paragraph 20.

21. Blue Spike, LLC denies that Defendant is entitled to the relief it seeks in Paragraph 21.

COUNT SIX
(Declaratory Judgment of Invalidity of the '700 Patent)

22. Blue Spike, LLC repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1-21.

23. Blue Spike, LLC denies the allegations of Paragraph 23.

24. Blue Spike, LLC denies that Defendant is entitled to the relief it seeks in Paragraph 24.

COUNT SEVEN
(Declaratory Judgment of Non-Infringement of the '472 Patent)

25. Blue Spike, LLC repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1-24.

26. Blue Spike, LLC admits the allegations of Paragraph 26.

27. Blue Spike, LLC denies the allegations of Paragraph 27.

28. Blue Spike, LLC denies that Defendant is entitled to the relief it seeks in Paragraph 28.

COUNT EIGHT
(Declaratory Judgment of Invalidity of the '472 Patent)

29. Blue Spike, LLC repeats and incorporates by reference its responses to the allegations contained in Paragraphs 1-28.

30. Blue Spike, LLC denies the allegations of Paragraph 30.

31. Blue Spike, LLC denies that Defendant is entitled to the relief it seeks in Paragraph 31.

PRAYER FOR RELIEF

Blue Spike, LLC denies that Defendant is entitled to any of the relief it requests.

**REQUEST FOR RELIEF
PLAINTIFF'S PRAYER FOR RELIEF**

In addition to the relief requested in Plaintiff's First Amended Complaint, Blue Spike, LLC respectfully requests a judgment against Defendant as follows:

- (a) That Defendant take nothing by its Counterclaims;
- (b) That the Court award Blue Spike, LLC its costs and attorneys' fees incurred in defending against these Counterclaims; and
- (c) Any and all further relief for the Blue Spike, LLC as the Court may deem just and proper.

Respectfully Submitted,

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Counsel for Blue Spike, LLC

CERTIFICATE OF SERVICE

I, Randall T. Garteiser, am the ECF User whose ID and password are being used to file this document. I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CV-5(a)(3) on this day. Pursuant to Federal Rule of Civil Procedure 5, this document was served via U.S. Mail and electronic means to counsel for Defendant that are not receiving this document via CM/ECF.

/s/ Randall T. Garteiser
Randall T. Garteiser